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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,027	04/08/2004	Scott C. Casebolt	221P139USU1	9242
23322	7590	03/29/2006		
IPLM GROUP, P.A. POST OFFICE BOX 18455 MINNEAPOLIS, MN 55418			EXAMINER THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 03/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/821,027

Applicant(s)

CASEBOLT ET AL.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 7, 12, 16, 17, 19 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 15, 18, 21-23, 28-33 and 37-41 is/are allowed.
- 6) ☒ Claim(s) 1, 11, 24, 34, 42 and 43 is/are rejected.
- 7) ☒ Claim(s) 2-~~6~~9, 10, 13, 25-27, 35, 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-7-05</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

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***Election/Restrictions***

This application contains claims directed to the following patentably distinct species:

Group I: an impact indicator that is a mark on the D-ring, Group II: an impact indicator that is a clip member, Group III: an impact indicator that is a change of appearance of the dorsal pad assembly, and Group IV: an impact indicator that is an ink filled pellet. The species are independent or distinct because they all are structurally different and affect the D-ring in multiple ways.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 4, 11, and 14 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with Ms. Robin Sannes on 2-28-06, a provisional election was made without oral traverse to prosecute the invention of Group I, claims 6 and 15. Affirmation of this election must be made by applicant in replying to this Office action. Claims

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7, 12, 16, 17, 19, and 20 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 24-34, 42, and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1, 14, 24, 28, 29, and 34, the recites a second position being “a connected operating position”. It is unclear as to what constitutes a connected operating position, i.e., to what is it connected. Note that no connection between any other element of the harness has been recited.

With respect to claim 11, there is no antecedent basis for “the impact indicator”.

With respect to claims 42 and 43, there is no antecedent basis for “the mechanism”.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 24, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisk et al #5,203,829. Fisk et al disclose a safety harness assembly 10 comprised of straps 18, 20 that are secured to a D-ring 46, and an adjuster link 48, operatively connected thereto for urging the D-ring to be maintained in constant relative position on the harness.

***Allowable Subject Matter***

Claims 14, 15, 18, 21-23, 28-33, 37-41 are allowed.

Claims 2-4, 9-11, 13, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, any intervening claims, and rewritten to overcome the Section 112 ambiguities as noted above. The primary reason for the allowance of claim 2 is the biasing mechanism being a spring member. For claim 3, it is the biasing mechanism being an elastic member. For claims 4, 14, and 28 it is the impact indicator operatively connected to the D-ring providing an indication of when the D-ring has been subjected to a force. For claim 9 it is the dorsal pad assembly including the impact indicator. For claim 13, it is the wear pad operatively connected to the D-ring. For claim 25, it is the dorsal pad assembly including a means for urging the D-ring to the first position. For claim 29, it is the structure of subparagraphs “c” and “d”. For claim 35 it is the

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method step requiring the D-ring in the second position being constantly urged to the first position. For claim 37 it is the structure of subparagraph "b". For claim 41, it is the means of subparagraph "b", that means being either a biasing mechanism or a clip member.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baillargeon et al #6,330,931, Rosenblum #3,424,134, Cadley #3,102,316, Sharp #6,691,824, Diggle et al #6,959,784, Bell et al #5,697,329, Spinosa et al #4,738,413, and Bell #6,006,860 are cited to teach harness assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

March 19, 2006